

# EXCEPTION

OPEN MEETING AGENDA ITEM

ORIGINAL

BEFORE THE ARIZONA CORPORATION



0000138503

DOCKET

2012 AUG 6 AM 11 31

## COMMISSIONERS

GARY PIERCE, CHAIRMAN

BOB STUMP

SANDRA D. KENNEDY

PAUL NEWMAN

BRENDA BURNS

IN THE MATTER OF THE APPLICATION  
OF MOHAVE ELECTRIC COOPERATIVE,  
INCORPORATED, AN ELECTRIC  
COOPERATIVE NONPROFIT  
MEMBERSHIP CORPORATION, FOR A  
DETERMINATION OF THE FAIR VALUE  
OF ITS PROPERTY FOR RATEMAKING  
PURPOSES, TO FIX A JUST AND  
REASONABLE RETURN THEREON AND  
TO APPROVE RATES DESIGNED TO  
DEVELOP SUCH RETURN.

DOCKET NO. E-01750A-11-0136

## EXCEPTIONS OF MOHAVE ELECTRIC COOPERATIVE, INCORPORATED

Arizona Corporation Commission

DOCKETED

AUG 06 2012

DOCKETED BY

JM

Mohave Electric Cooperative, Incorporated ("Mohave" or the "Cooperative"),  
by and through undersigned counsel, pursuant to A.A.C. R14-3-110B, hereby files Exceptions  
to the Recommended Opinion and Order ("ROO") docketed by ACALJ Dwight D. Nodes on  
July 27, 2012. Mohave commends ACALJ Nodes on a thorough discussion of the issues and  
agrees with much of the ROO. Mohave also thanks Staff for its efforts to resolve contested  
issues throughout these proceedings. While not all issues were resolved, Staff and Mohave  
did ultimately agree on the revenue requirement, rate base, return, many rate design issues  
and most issues associated with the Staff's audit of Mohave's power purchases for the ten  
year period from August 1, 2001 to December 31, 2010.

1                   These Exceptions are directed to:

2                   1.     Lifting the \$9 million minimum cash reserve restriction imposed by  
3     Decision No. 72216 (by which the Commission authorized financing to fund Mohave's four-  
4     year capital work plan) due to the improved financial conditions arising from the new rates.  
5     Staff testified in support of lifting this restriction. Mohave believes the item was overlooked  
6     and inadvertently omitted from the ROO.

7                   2.     Waiving the applicability of A.A.C. R14-2-211E(4) that envisions a  
8     personal visit from a utility representative to disconnect service with notice should not be in  
9     Mohave's rules. Mohave inadvertently agreed to including this Commission rule within its  
10    rules and, like Arizona Public Service and Tucson Electric Power, this provision no longer  
11    applies where remote disconnect is available.

12                  3.     Replacing the proposed mandatory costly and time consuming full rate  
13    filing requirement by September 1, 2016 with an informational filing. Mandating a full rate  
14    filing in this Docket negates the Commission's effort to streamline the rate process for  
15    Mohave and other electric cooperatives.

16                  4.     Avoiding the adverse impacts associated with the proposed \$563,035  
17    adjustment to Mohave's Purchased Power Clause Adjustor ("PPCA") bank balance to remove  
18    2010 purchased power related expenditures that Staff recognized as legitimate test year costs.

19                  5.     Holding this Docket open until December 31, 2013 for the purpose of  
20    allowing Mohave discretion to pursue amendments to its line extension policies impacting the  
21    costs paid by prospective members after conducting additional customer outreach, while  
22    accepting clarifications of the existing rule. Such action addresses the concerns expressed in  
23    Decision No. 73255 involving Navopache Electric Cooperative, Inc. and relied on by the  
24    ROO, without delaying changes that do not impact the costs paid by those requesting a line  
25    extension.

1 Proposed amendments to the ROO separately addressing each of the foregoing  
2 issues are attached as MEC Proposed Amendments 1 - 6. Mohave respectfully requests that  
3 the Commission adopt MEC Proposed Amendments 1 - 4 and 6 to the ROO or, in the event  
4 Amendment No. 4 is not adopted, Amendment No. 5 for the reasons set forth below.

5 **A. LIFTING OF THE CASH RESERVE REQUIREMENT**

6 In connection with authorizing Mohave to borrow the funds necessary to pursue  
7 its 4-year capital work plan ("CWP"), the Commission required Mohave "maintain \$9.0  
8 million of cash and cash equivalents in reserve . . . until the Commission subsequently  
9 removes such restriction." Decision 72216, p. 6, ln. 23-25. Mohave filed its rate application  
10 to address a need to show improved operating results and debt service coverage. As part of  
11 its application, Mohave requested the Commission "eliminate the \$9 million cash or cash  
12 equivalent reserve requirement established by Commission Decision No. 72216, dated March  
13 9, 2011." MEC-1, p. 5. Staff witness, Ms. Brown, recommended "that the Cooperative's  
14 request to eliminate its \$9 million reserve requirement be approved." (S-4, p. 14) This  
15 uncontested issue was not discussed by either Mohave or Staff in their post-hearing briefing  
16 and, as a result, Mohave presumes ACALJ Nodes understandably overlooked it in preparing  
17 the ROO.

18 The attached MEC Proposed Amendment No. 1 is offered to address this  
19 omission in the ROO and Mohave respectfully requests it be adopted by the Commission.

20 **B. THE PROVISIONS OF A.A.C. R14-2-211E(4) SHOULD**  
21 **NOT BE INCLUDED IN MOHAVE'S SERVICE RULES**

22 Staff observed that Mohave's service rules historically had omitted some  
23 provisions of the Commission's rules and regulations and recommended that Mohave add  
24 them to its service rules. (Ex. S-2, at 7-8) Mohave did not contest this recommendation and it  
25 is summarily adopted by the ROO. ROO, p. 10, ln.1-11. Mohave now realizes that A.A.C.  
R14-2-211E(4), which refers to a personal visit from a utility representative during a

1 disconnect with notice, no longer applies to all disconnects. As Mohave deploys its AMI  
2 system and upgrades its system, it has the capability to disconnect remotely after notice. The  
3 elimination of the requirement already appears in the service rules of other Arizona utilities.  
4 For example, Arizona Public Service, Schedule 1, section 7.1, dealing with termination of  
5 service, provides:

6                   With Notice - Company may without liability for injury or  
7                   damage, and *without making a personal visit to the site*,  
8                   disconnect service to any Customer for any of the reasons stated  
9                   below, provided Company has met the notice requirements  
                    established by the Arizona Corporation Commission:

10 (*italics added*). Tucson Electric Power simply excludes the provision of A.A.C. R14-2-  
11 211E(4) from Section 12F of its rules and regulations.

12                   Likewise, the provision of A.A.C. R14-2-211E(4) needs to be excluded from  
13 the rules governing Mohave's termination process.

14                   The attached MEC Proposed Amendment No. 2 addresses this issue and  
15 Mohave respectfully requests it be adopted by the Commission.

16                   **C. THE PROPOSED MANDATORY COSTLY FULL RATE**  
17                   **FILING CAN AND SHOULD BE REPLACED BY AN**  
18                   **INFORMATIONAL FILING, THE PLAN OF**  
19                   **ADMINISTRATION FOR THE PPCA AND BETTER**  
20                   **COORDINATION WITH STAFF ON PURCHASED**  
                    **POWER DOCUMENTATION**

21                   The ROO mandates Mohave "file a full rate case no later than September 1,  
22 2016, based on a calendar year 2015 test year." ROO, p. 38, ln. 5-6. (*emphasis added*).  
23 Mandatory imposition of such a costly and time-consuming requirement is at cross purposes  
24 with the Commission's efforts to provide electric cooperatives a less costly, more efficient  
25 streamlined rate process (Rulemaking Docket RU-00000A-12-0270) and, as discussed below,

1 is unnecessary and an unwarranted intrusion on the management prerogative of Mohave's  
2 member-elected Board of Directors.

3 Staff argued that mandating a full rate filing no later than September 1, 2016  
4 was appropriate solely due to difficulty it had in securing power procurement information it  
5 requested in this case. ROO, p. 26, ln. 23-26. In other words, the proposal to require a costly  
6 and time consuming full rate filing is not due to any financial concerns, or due to issues with  
7 Mohave's rates or service. Instead, it arises from a good faith discovery issue evidencing a  
8 difference of opinion as to the proper scope of the current proceeding.<sup>1</sup> After the parties met  
9 at Mohave's request,<sup>2</sup> the issue was amicably resolved and Staff "ultimately concluded that . .  
10 . actual eligible purchased power costs were adequately documented from August 2001  
11 through December 2010." ROO, p. 17, ln. 10-12.

12 Furthermore, two other requirements included in the ROO separately address  
13 power procurement documentation on a going forward basis. First, Staff and Mohave are to  
14 engage in informal discussions to allow Staff to provide input regarding the types of  
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16 <sup>1</sup> Mohave believes such difficulties would have been avoided if, when the parties met in April 2011 to  
17 discuss Mohave's rate filing, Staff had discussed its intent to undertake an audit and advised Mohave  
18 of its desire and intent to audit ten years of Mohave's power procurement practices (since its  
19 Commission approved conversion to a partial requirements member of Arizona Electric Power  
20 Cooperative ("AEPCO") in July of 2001) and that Mohave needed to be prepared to provide  
21 documentation to Staff. Thus, instead of being given a heads up and sufficient lead time to organize  
22 ten years of documentation, Mohave learned of Staff's desire to undertake this review four (4) months  
23 later, via Staff's third data request dated September 1, 2011 (the Thursday before the Labor Day  
24 holiday). Mohave explained the hardship the request imposed on its staff and questioned the data's  
25 relevancy in view of the Commission's recent approval of its power supply contract with AEPCO. A  
full copy of Mohave's timely objection is attached as Exhibit A. Despite the objection, on September  
19, 2011 Mohave still provided an extensive narrative describing its purchased power process for the  
entire 10 year period, plus documented power purchases and practices over the 2007 – 2010 period. It  
was Staff's request to document the 2001 – 2006 period Mohave questioned.

<sup>2</sup> Mohave had assumed that if Staff wanted to pursue the 2001-2006 issues following its timely  
objection, Staff would seek Hearing Division intervention as provided in the July 15, 2011 Procedural  
Order or, at least, request a meeting with Mohave to discuss the issue. Staff did neither. Instead, Staff  
proposed an arbitrary and unjustified penalty of \$1,946,000, prompting Mohave to request a meeting  
and resulting in the amicable resolution of the issue.

1 documentation that may be required in future rate cases and purchased power prudence  
2 reviews. ROO, p. 38, ln. 7-10. Second, Mohave is to file a Plan of Administration for its  
3 PPCA. ROO, p. 38, ln. 2-4. These requirements are in addition to the monthly PPCA filings  
4 already being submitted to Staff. Together, these actions should eliminate issues relating to  
5 documentation on a going forward basis. Mohave is hopeful that it will also allow Staff to  
6 implement a more limited review in place of the in-depth audit undertaken by Staff in this  
7 docket. In any event, a full rate case filing is unnecessary for Staff to undertake a review of  
8 Mohave's power procurement practices.

9 To aid Staff in its regulatory oversight role, Mohave offered and remains  
10 willing to make an informational filing no later than September 1, 2016 based upon the 2015  
11 calendar year unless prior thereto it has previously filed a full rate case. Unless Staff agrees  
12 to a lesser filing, Mohave would submit the schedules that would be pre-filed pursuant to  
13 proposed A.A.C. R14-2-107(C), plus its annual summaries of its purchased power  
14 procurements for 2011 through 2015 in a form acceptable to Staff (e.g., similar to the form  
15 provided in response to Staff's Data Requests). These filings can be spelled out further in the  
16 Plan of Administration of its PPCA it is already required to file pursuant to the ROO.

17 Importantly, Mohave still acquires about 90% of its power from AEPCO at  
18 rates set by the Commission. It is inappropriate to force Mohave to expend the large amount  
19 of funds and time to prepare a full rate case simply to aide Staff's regulatory oversight of  
20 Mohave's fuel procurement practices where there are less costly and more efficient methods  
21 to ensure appropriate regulatory oversight of Mohave's member-elected Board of Directors.  
22 This is precisely the action taken in Decision No. 63868 when the Commission rejected a  
23 Staff recommendation that AEPCO and Southwest Transco be ordered to file a rate case by a  
24 date certain and ordered an informational filing instead.<sup>3</sup> It is also consistent with Decision

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25 <sup>3</sup> Decision No. 63868, p. 14, ln. 5-10.

1 No. 71274, involving another PRM, SSVEC. In that Decision, the Commission declined to  
2 “decide now whether a fuel procurement prudency review should be required in three years or  
3 in the next rate case. We believe it is better to allow Staff to determine in the next rate case,  
4 based on intervening facts, how best to investigate SSVEC’s fuel procurement policies and  
5 practices. This may result in a full prudency review, or it may involve a lesser  
6 investigation.”<sup>4</sup> Finally, a mandatory full rate case is inconsistent with the Commission’s  
7 effort to streamline and avoid unnecessary full rate filings. (Rulemaking Docket RU-00000A-  
8 12-0270).

9 For the foregoing reasons, where there are much less costly and intrusive means  
10 to provide appropriate regulatory oversight, the Commission should reject the ROO’s  
11 provisions that both 1) deprive Mohave’s Board of Directors of the basic management  
12 determination as to if and when a rate filing should be made, 2) precludes the use of the more  
13 efficient streamlined process outlined in proposed A.A.C. R14-2-107.

14 The attached MEC Proposed Amendment No. 3 requires an informational filing  
15 in lieu of mandating the filing of a full rate case. Mohave respectfully requests that the  
16 Commission adopt it to address this issue.

17 **D. THE COMMISSION MUST REJECT THE \$563,035**  
18 **ADJUSTMENT TO MOHAVE’S PPCA BANK BALANCE**

19 In 2010, Mohave expended \$563,035 on in-house labor, attorneys, and outside  
20 consultants in performing tasks necessary to procure, use and report its purchased power.  
21 There is no dispute that these expenditures were reasonable and appropriate. Staff recognizes  
22 that the costs should be recovered on a going forward basis and included them as operating  
23 expenses to be recovered in base rates. In contrast, Mohave booked these expenses to  
24  
25

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<sup>4</sup> Decision No. 71724, p. 34.

1 Account 557 and expensed them during 2010 under its PPCA. Per RUS Bulletin 1767B-1,  
2 Account 557, subsection A provides:

3 557 Other Expenses

4 A. This account shall be charged with any production expenses  
5 including expenses incurred directly in connection with the  
6 purchase of electricity, which are not specifically provided for in  
7 other production expense accounts. Charges to this account shall  
be supported so that a description of each type of charge will be  
readily available.

8 While Mohave prefers to recover these expenditures through the PPCA on a  
9 going forward basis, it does not oppose their inclusion in base rates. However, Mohave does  
10 oppose the ROO retroactively disallowing recovery of these actual 2010 costs booked to  
11 Account 557 and recovered through the PPCA. The ROO requires Mohave to adjust the  
12 PPCA bank balance to remove these 2010 costs, thus returning the \$563,035 to members  
13 through the PPCA, even though there is no dispute the funds were expended and appropriate  
14 utility expenditures. The sole issue is whether Mohave must adjust the PPCA bank balance in  
15 order to return monies for valid purchased power related expenditures to members.

16 The Staff and the ROO contend that Mohave's use of the PPCA to collect these  
17 expenditures was inappropriate because: 1) Mohave had not done so previously and did not  
18 consult with Staff before starting to do so, 2) these were not the types of expenditures the  
19 PPCA is intended to recover, 3) previous Commission Decisions have accepted Staff  
20 recommendations that excluded Account 557 expenditures from the PPCA and 4) inclusion of  
21 the disputed costs in the PPCA could result in a measure of double recovery. While these  
22 reasons may be sufficient to eliminate these expenditures from the PPCA on a going forward  
23 basis, they do not justify applying that decision retroactively by adjusting the PPCA bank  
24 balance.

25 Prior to starting to isolate these expenses as purchased power related costs in  
2008, Mohave did treat them as general administrative expenses. The fact that Mohave failed



1 to flow allowable purchased power related costs through the PPCA prior to 2010 does not  
2 alter the fact that they are incurred in connection with Mohave's purchased power activities.<sup>5</sup>  
3 Mohave is criticized for not consulting with Staff, but when it did so with regard to treatment  
4 of margins on third party sales, Staff neither expressly objected or accepted the practice.  
5 Therefore, before treating these expenses as purchased power related costs and booking them  
6 to Account 557, Mohave consulted with its outside auditor, as well as the consultants  
7 assisting it with power procurement who advised that such treatment was appropriate. It then  
8 spent two years (2008 – 2009) developing a system to properly document these costs and  
9 booking them in Account 557 before starting to recover them through the PPCA.

10 In 2010, Mohave started reporting these expenses as purchased power expenses  
11 in the monthly PPCA reports submitted to Commission Staff. Mohave has subsequently had  
12 its 2010 and 2011 audits completed by independent auditors who approved the treatment of  
13 these expenses. The revised treatment also improved Mohave's financial ratios by removing  
14 these costs from operating expenses and listing them as an unrecovered asset. Otherwise, the  
15 impacts of the sudden worsening of the economy would have even further eroded Mohave's  
16 financials.

17 Today, Mohave is in technical default of the terms of all outstanding loans  
18 because it has failed to meet the minimum debt service coverage specified by its lenders in  
19 2010 and 2011. It appears unlikely that rate relief commencing in September 2012 will be  
20 sufficient to avoid a third consecutive year where the minimum DSC is not achieved.  
21 Mohave's member-elected Board of Directors believe it acted properly and in the best interest  
22 of its customers with regard to its treatment of these 2010 expenses.

23 Mohave agrees that the situation would be different had these expenditures  
24 existed and previously been included in base rates. However, Mohave last received a general

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25 <sup>5</sup> Tr. Vol I, p. 163, ln 17-25 (exchange between ACALJ Nodes and Mohave Witness Carl Stover).

1 rate adjustment in 1990 – eleven (11) years before it became a PRM and started incurring  
2 these expenses. It is simply impossible for any of them to be embedded in Mohave's base  
3 rates; a fact ACALJ Nodes emphasized more than once during the hearing.<sup>6</sup>

4 The prior Commission decisions cited by Staff and the ROO<sup>7</sup> involved  
5 circumstances where the utilities *voluntarily* accepted Staff's recommendation to totally  
6 exclude Account 557 expenditures from their PPCA and the Commission, in turn, accepted  
7 the *uncontested* position of Staff *on a going forward basis*. These Decisions did not purport  
8 to establish general guidelines applicable to Mohave, nor did they involve any adjustment to  
9 the fuel adjustors' bank balance. They simply do not control the present case.

10 If the ROO is adopted without amendment, Mohave will never recover the  
11 \$563,035 it expended in 2010 because these expenditures will not be reflected in rates until  
12 September 2012. It will also have to reflect these costs on its income statement, worsening  
13 financials that already fail to meet the minimum levels required by its lenders.<sup>8</sup> The adverse  
14 impact of the bank balance adjustment is compounded by the ROO's decision to also have all  
15 margins from third party sales flow through the PPCA, as those margins historically have  
16 flowed to the income statement to improve the Cooperative's financial ratios.<sup>9</sup> Mohave  
17 respectfully requests the Commission accept the ROO's recommendation relating to the

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18 <sup>6</sup> Tr. Vol III, p. 356, ln 20-22 ("Well, wait a minute. If the rates were set 10 years prior to that point,  
19 how could those costs have been included in the company's rates?") Tr. Vol III, p. 359, ln 23 – p.  
20 360, ln 2 ("But how can you say that the rates that the company has been collecting in any way reflect  
21 these specific power purchase costs that are now being flowed through the PPCA? I mean I just don't  
see how you can possibly make that argument.") Vol III, p. 361, p. 361, ln 9-11 ("because when these  
rates were set, these costs weren't even fathomed as something that they would have to incur.")

22 <sup>7</sup> Decision No. 68071 (involving AEPCO) and Decision No. 71274 (involving SSVEC).

23 <sup>8</sup> The exact impact is not yet known as the treatment is subject to review by Mohave's outside auditor  
24 and the Rural Utilities Service, but could be as much as a \$1.1 million reduction in 2012 margins.  
Mohave offers MEC Proposed Amendment No. 5 to provide Mohave accounting flexibility in the  
event the Commission rejects MEC Proposed Amendment No. 4.

25 <sup>9</sup> While Mohave continues to believe that a 50/50 sharing of margins is appropriate, it is not taking  
exception to the ROO's recommendation that 100% flow through the PPCA.

1 PPCA on a prospective basis, but not require it to retroactively alter the treatment of these  
2 costs. Mohave asks that it not be required to adjust the PPCA bank balance for these  
3 expenses.

4 The attached MEC Proposed Amendment No. 4 addresses this issue. Mohave  
5 respectfully requests the Commission adopt Amendment No. 4<sup>10</sup>

6 **E. MOHAVE PROPOSES HOLDING THIS DOCKET OPEN**  
7 **TO ALLOW LATER ACTION ON THE MONETARY**  
8 **ASPECTS OF ITS PROPOSED LINE EXTENSION**  
9 **POLICY, BUT ASKS THE CLARIFICATIONS BE**  
10 **IMPLEMENTED IMMEDIATELY**

11 The ROO, based upon recent Commission Decision No. 73255 involving  
12 Navopache Electric Cooperative, Inc., recommends preserving Mohave's existing line  
13 extension policies unless and until Mohave has demonstrated to the Commission's  
14 satisfaction that it has performed sufficient outreach to its members and that revisions to the  
15 line extension policies are in the public interest.

16 Mohave is willing to preserve its existing line extension policies as it relates to  
17 the sharing of costs between existing and prospective customers, subject to performing  
18 additional member outreach. However, Mohave respectfully asks that the Commission hold  
19 this Docket open until December 31, 2013 to allow the issue to be pursued within this Docket.  
20 Such action would conform to action taken by the Commission in Decision No. 73255.

21 Moreover, Mohave requests that the Commission approve, at this time,  
22 clarifications and updates of Mohave's line extension policy that do not have a monetary  
23 impact. Mohave's line extension policies have not been updated for more than 20 years. The  
24 proposals submitted by Mohave included numerous clarifications and updates that do not  
25 have a monetary impact, which Staff did not oppose. Mohave, therefore, proposes such

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<sup>10</sup> If Amendment No. 4 is not adopted, Mohave requests that its Proposed Amendment No. 5 be adopted as discussed in footnote 8).

1 clarifications and updates be effective on a date specified by Mohave, no earlier than 45 days  
2 subsequent to filing in this docket, unless prior to the date Staff files an objection thereto.  
3 Mohave further agrees to submit its proposed non-monetary revisions to Staff for review not  
4 less than 30 days prior to making the filing in this docket.

5 The attached MEC Proposed Amendment No. 6 addresses this issue and  
6 Mohave respectfully requests that the Commission approve it.

#### 7 **F. CONCLUSION**


8 Mohave can and does support much of the ROO and again thanks Staff and  
9 ACALJ Nodes for their hard work throughout the proceeding. Mohave has limited its  
10 Exceptions to those areas where:

- 11 1) items were not dealt with at all or incompletely (\$9 million cash reserve and  
12 disconnect issues under A.A.C. R14-2-211E(4));
- 13 2) there is an alternative way to provide appropriate regulatory oversight  
14 without unnecessarily intruding upon the management prerogative of  
15 Mohave's member-elected Board (informational filing coupled with  
16 dialogue with Staff and PPCA plan of administration instead of a mandatory  
17 full rate filing; holding the docket open to deal with monetary changes and  
18 proceeding with clarifying changes to its line extension policy); and
- 19 3) a determination with significant financial ramifications is being applied  
20 retroactively (adjusting the PPCA bank balance).

21 For the reasons set forth above, Mohave respectfully requests the Commission  
22 adopt MEC Proposed Amendments 1- 4 and 6. In the event MEC Proposed Amendment No.  
23 4 is not adopted, then Mohave asks that MEC Proposed Amendment No. 5 be adopted.  
24  
25

1 RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of August, 2012.

2 CURTIS, GOODWIN, SULLIVAN,  
3 UDALL & SCHWAB, P.L.C.

4  
5 By: 

6 Michael A. Curtis  
7 William P. Sullivan  
8 501 East Thomas Road  
9 Phoenix, Arizona 85012-3205  
10 Attorneys for Mohave Electric  
11 Cooperative, Incorporated

12 PROOF OF AND CERTIFICATE OF MAILING

13 I hereby certify that on this 6<sup>th</sup> day of August, 2012, I caused the foregoing  
14 document to be served on the Arizona Corporation Commission by delivering the original  
15 and thirteen (13) copies of the above to:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington  
19 Phoenix, Arizona 85007

20 Copy of the foregoing hand delivered to:

21 Chairman Gary Pierce  
22 Arizona Corporation Commission  
23 1200 West Washington  
24 Phoenix, Arizona 85007

Commissioner Bob Stump  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

25 Commissioner Paul Newman  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner Brenda Burns  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Commissioner Sandra D. Kennedy  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

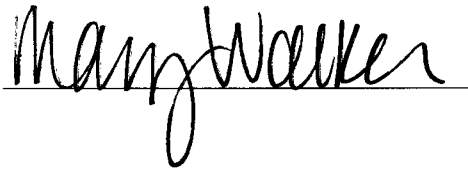
John Le Sueur  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

1 Nancy LaPlaca  
2 Arizona Corporation Commission  
3 1200 West Washington  
4 Phoenix, Arizona 85007

5 Cristina Arzaga-Williams  
6 Arizona Corporation Commission  
7 1200 West Washington  
8 Phoenix, Arizona 85007

9 Amanda Ho  
10 Arizona Corporation Commission  
11 1200 West Washington  
12 Phoenix, Arizona 85007

13 Thomas F. Galvin, Jr.  
14 Arizona Corporation Commission  
15 1200 West Washington  
16 Phoenix, Arizona 85007

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18  
19  
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21  
22  
23  
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25  


Dwight Nodes, ALJ  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Bridget Humphrey, Esq.  
Brian Smith, Esq.  
Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Steve Olea  
Director of Utilities  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

# EXHIBIT A

The Law Offices of  
**CURTIS, GOODWIN, SULLIVAN,  
UDALL & SCHWAB, P.L.C.**

501 East Thomas Road  
Phoenix, Arizona 85012-3205

Telephone (602) 393-1700  
Facsimile (602) 393-1703  
E-mail [wsullivan@cgsuslaw.com](mailto:wsullivan@cgsuslaw.com)  
[www.cgsuslaw.com](http://www.cgsuslaw.com)

Michael A. Curtis  
Susan D. Goodwin  
Kelly Y. Schwab  
Phyllis L.N. Smiley

William P. Sullivan  
Larry K. Udall  
Anja K. Wendel  
Michelle Swann  
Melissa A. Parham

Of Counsel  
Joseph F. Abate  
Thomas A. Hine

REFER TO FILE NO. 1234-18-8

September 8, 2011

Via Email only

Bridget Humphrey, Esq.  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Re: Mohave Electric Cooperative, Incorporated Rate Case  
Docket No. E-01750A-11-0136 – Objections to Staff's  
Third Set of Data Requests

Dear Bridget:

Mohave Electric Cooperative, Incorporated (Mohave) has received Staff's Second and Third Set of Data Requests dated August 30, 2011 and September 1, 2011, respectively. As we have noted in prior communications, Mohave does not maintain a separate staff to process rate cases. Therefore, Mohave's employees remain responsible for performing their regular duties, in addition to responding to data requests received related to the pending rate case. Mohave intends to remain cooperative and responsive to legitimate Staff inquiries, to avoid unnecessary discovery disputes, and to otherwise facilitate the prompt processing of its rate case. However, Mohave objects to numerous broad, burdensome and irrelevant data requests included within Staff's Third Set of Data Requests, prepared by Mr. Jerry Mendl of MS Energy Associates, Inc.

These data requests seek information related to Mohave's power purchases and power purchasing practices for the last decade (i.e., prior to and after the Commission expressly authorized Mohave's conversion to a Partial Requirements Member (PRM) of the Arizona Electric Power Cooperative (AEPSCO) pursuant to Decision No. 63868, dated July 25, 2001). Importantly, not only do these requests seek a large amount of detailed information involving periods well outside of the test year ending December 31, 2009 that would be extremely burdensome if not impossible to gather, the Commission's Decision No. 72055, dated January 6,



2011 renders the bulk of the information of limited or no value in accessing Mohave's current and future power purchasing practices.

By Decision No. 72055, the Commission approved new and revised contracts between AEPCO and its PRMs, Mohave, Sulphur Springs Valley Electric Cooperative, Inc., and Trico Electric Cooperative, Inc., as well as a revised all requirements agreement between AEPCO and its ARMs, Duncan Valley Electric Cooperative and Graham County Electric Cooperative. These new and revised contracts substantially alter the manner in which AEPCO's costs are allocated among its ARMs and PRMs and thus the rates and charges AEPCO is authorized to charge the ARMs and PRMs. Moreover, even prior to the Commission's approval of the latest round of new and amended ARM and PRM contracts, the Commission had also approved intermediate new and amended contracts that impacted Mohave's relationship to AEPCO and other members of AEPCO. See, Decision No. 70105, dated December 21, 2007 (where the Commission approved SSVEC's conversion to a PRM).

Mohave therefore objects to the data requests specifically listed below as unduly burdensome and irrelevant:

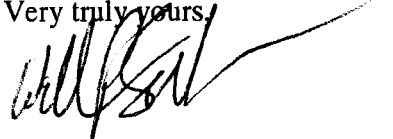
JM-3.7 d), e) and f); JM-3.8; JM-3.15 (all subparts); 3.16 (all subparts); JM-3.17 (all subparts); JM-3.19; JM-3.20; JM-3.22; JM-3.23; JM-3.25; JM-3.27; JM-3.29; JM-3.31; JM-3.33; JM-3.34 (all subparts); JM-3.38; JM-3.39; JM-3.40; JM-3.41; JM-3.42; JM-3.44; JM-3.48 through JM-3.51 (all subparts); JM-3.53; JM-3.55 through JM-3.58; JM-3.60; JM-3.62 - JM-3.72; JM-3.74 and JM-3.76;

In an effort to minimize disputes with Staff, and without waiving its objection to the specific data requests listed above, Mohave notifies Staff of its intent to provide a narrative generally describing its present and past relationship with AEPCO and power purchasing practices. To the extent maintained and reasonably retrievable by Mohave, Mohave will also provide information regarding its power purchases for the period commencing January 1, 2007 through December 31, 2009 in response to specific data requests. Mohave is still evaluating whether and to what extent additional time may be necessary to respond to Staff's Third Set of Data Requests. As you know, the Third Set of Data Requests was emailed two days after Staff emailed its Second Set of Data Requests. The standard 10 calendar day response period for both sets of data requests included the Labor Day holiday. Mohave expects to be able to provide responses to the Second Set of Data Requests no later than 4 p.m. Friday, September 9, 2011 (the 10<sup>th</sup> calendar day after electronic receipt). However Mohave asks that Staff grant Mohave until Monday, September 19, 2011 to provide its initial response to Staff's Third Set of Data Requests. Also, Mohave requests a Protective Agreement with Staff prior to providing confidential information (e.g., price) requested in the Third Set of Data Requests. We are reviewing the form of Protective Agreement proposed by Staff shortly after the rate application was filed and will provide comments or return it signed by the end of business tomorrow.

Bridget Humphrey, Esq.  
September 8, 2011  
Page 3

If you have any questions regarding this letter, please do not hesitate to contact the undersigned to discuss.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael A. Curtis", with a long horizontal flourish extending to the right.

Michael A. Curtis  
William P. Sullivan  
For the Firm

WPS/maw

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# **MEC'S PROPOSED AMENDMENTS**

MEC PROPOSED AMENDMENT NO. 1  
Docket No. E-01750A-11-0136  
(Eliminating \$9 Million Minimum Cash Reserve)

Page 30, line 2, insert before “DSM” the following:

**\$9 Million Minimum Cash Reserve**

By its Application MEC requested the Commission “eliminate the \$9 million cash or cash equivalent reserve requirement established by Commission Decision No. 72216” where the Commission approved MEC request for financing to fund its capital work plan (“CWP”). Staff found the additional revenues recommended by MEC and Staff in this case negated the need for such a reserve and recommended “that the Cooperative’s request to eliminate its \$9 million reserve requirement be approved.” S-4, p. 14. We agree the reserve requirement should be eliminated.

Page 35, line 8, insert new Finding of Fact 47, and renumber accordingly:

47. The \$9 million cash or cash equivalent reserve requirement established by Commission Decision No. 72216 should be eliminated.

Page 38, line 11, insert new Ordering Paragraph:

IT IS FURTHER ORDERED that the \$9 million cash or cash equivalent reserve requirement established by Commission Decision No. 72216 hereby is eliminated.

MEC PROPOSED AMENDMENT NO. 2  
Docket No. E-01750A-11-0136  
(A.A.C. R14-2-211 E(4))

Page 10, line 6, after the sentence insert:

In its Exceptions MEC indicated that it had inadvertently agreed to include A.A.C. R14-2-211 E(4) in its proposed service rules and regulations. The rule requires a personal visit from a MEC representative to disconnect service. MEC points out that with the deployment of advanced metering technology and upgrades to its system, remote disconnections are possible and that we have previously eliminated this requirement for other utilities we regulate, like Arizona Public Service and Tucson Electric Power.

Page 10, line 6, delete “two” and substitute “three”

Page 10, line 11 before the period insert: “, however, we will further waive the requirements of A.A.C. R14-2-211 E(4).”

Page 34, line 2, delete the period

Page 34, line 3 following the closing parenthetical insert: “; however, we will further waive the requirements of A.A.C. R14-2-211 E(4).”

MEC PROPOSED AMENDMENT NO. 3  
Docket No. E-01750A-11-0136  
(Rate Filing)

Delete Page 28, line 16 – Page 29, line 5 and Insert:

Although MEC is a public service corporation under Article 15, § 2, of the Arizona Constitution, and, as such subject to the jurisdiction of the Commission, we agree with MEC that a certain level of deference should be accorded the Company's operations due to its member-owned cooperative structure. We should look to methods of providing an appropriate level of regulatory oversight without unnecessarily intruding upon the management prerogative of MEC's member-elected Board of Directors. We note that the difficulties Staff cited relating to securing purchase power procurement information from MEC in this case were ultimately resolved between the parties without Hearing Division or Commission intervention. Further, we are concerned that MEC's conversion to a PRM not drive the timing of MEC's future filing of full rate cases where approximately 90% of its purchased power continues to be provided by Arizona Electric Power Cooperative at rates set by this Commission.

We find the proper balance between regulatory oversight and deference will be achieved without mandating a full rate filing through the following: 1) the meeting we are requiring between Staff and MEC for MEC to receive Staff input regarding the type of documentation it should maintain for future rate cases and purchased power prudence reviews, 2) the new requirement for MEC to file a Plan of Administration for its PPCA, 3) the existing requirement that MEC file monthly PPCA filings, and 4) a new requirement of an informational filing no later than September 1, 2016 based upon a 2015 calendar year, unless MEC has made an earlier full rate case filing. We find that the informational filing should contain the schedules identified in the proposed A.A.C. R14-2-107(C) (Rulemaking Docket No. RU-0000A-12-0270) related to a streamlined rate process for electric cooperatives, together with annual summaries of MEC's purchased power procurements for the 2011 through 2015 period and such further information as Staff may request in response to the filing.

Page 35, line 3, delete "a full rate case" and substitute "an information filing as discussed herein"

Page 38, line 5-6, delete "a full rate case" and substitute "an information filing as discussed herein"

MEC PROPOSED AMENDMENT NO. 4  
Docket No. E-01750A-11-0136  
(PPCA Bank Balance Adjustment)

Delete Page 25, line 12 through Page 25, line 5 and substitute:

We agree with Staff that on a going-forward basis, costs related to consulting, legal, in-house labor and lobbying should not be included in MEC's PPCA. The remaining issue is whether we should require MEC to adjust its PPCA bank balance by removing any or all of those costs expensed through the PPCA prior to a decision in this case. In making this determination we must weigh the reasonableness of MEC's action against any harm imposed on its customers. Here, we are dealing with a not-for-profit cooperative that is owned, operated and managed by the customers it serves. Therefore, there are no shareholders to absorb the financial impact if we order MEC to make an adjustment. Moreover, MEC's treatment of these costs has increased the member/customer's patronage capital, while requiring an adjustment to the PPCA bank balance will reduce the member/customer's patronage capital.

While prior Commission Decisions involving AEPCO and SSVEC may have strongly suggested that such costs were not eligible for recovery through a fuel and purchased power adjustor, the Commission had adopted no rule or decision of general applicability or specifically applied to MEC that prohibited flowing Account 557 expenses through MEC's PPCA. MEC consulted with independent auditors and utility consultants before changing the way MEC treated these expenses and proceeded based upon that advice. While we encourage MEC and all other utilities under our jurisdiction to seek guidance from Staff on this type of issue, failure to do so is not determinative, as the Commission is not bound by that guidance. Likewise, we do not find MEC's treatment of these costs prior to 2010 to be instructive as to whether they could be collected through the PPCA. Further, there is no double recovery because these costs are incurred in connection with performing additional functions associated with its status as a PRM of AEPCO and did not exist when MEC's base rates were last established in 1990 by Decision No. 57172.

We are also aware that requiring MEC to adjust its PPCA bank balance will have negative impacts on its 2012 financials at a time it already is in technical default of its contractual agreements with its lenders. Based upon the foregoing, we will not require MEC to adjust its PPCA bank balance to remove the costs related to consulting, legal, and in-house labor MEC had booked and expensed through its PPCA prior to the effective date of this Decision. MEC shall, however, adjust its PPCA bank balance to remove the \$32,702 in 2010 lobbying expenses.

MEC PROPOSED AMENDMENT NO. 4  
Docket No. E-01750A-11-0136  
(PPCA Bank Balance Adjustment)

Page 34, delete lines 20 -23 through the period and substitute:

41. MEC should remove \$32,702 included in the test year PPCA for lobbying expenses from its purchase power bank, and require MEC to make a filing within 30 days of the effective date of this Decision showing that the bank balance adjustment has been made.

Page 37, Delete lines 17 and 21 and substitute:

IT IS FURTHER ORDERED that Mohave Electric Cooperative, Incorporated shall remove \$32,702 included in the test year PPCA for lobbying expenses from its purchase power bank, and the Company shall make a filing with Docket Control, as a compliance item in this docket, within 30 days of the effective date of this Decision showing that the bank balance adjustment has been made.



MEC PROPOSED AMENDMENT NO. 5  
Docket No. E-01750A-11-0136  
(Alternative to MEC Proposed Amendment No. 4)

Page 26, line 17, Insert new paragraph

However, we understand that our decision to require an adjustment to its PPCA bank balance will have a negative impact on MEC's financial statements and is based on our regulatory preference and not on any violation by MEC of a law, rule or audit requirement. Therefore, we will recognize MEC's right to account for this adjustment to its PPCA bank balance in any manner acceptable to its auditors and lenders. Such action shall not constitute or imply approval or disapproval by the Commission of any accounting treatment for purposes of establishing just and reasonable rates.

Page 34, line 28, Insert new Finding of Fact and renumber as appropriate as follows:

43. MEC should be authorized to account for this adjustment to its PPCA bank balance in any manner acceptable to its auditors and lenders. Such action shall not constitute or imply approval or disapproval by the Commission of any accounting treatment for purposes of establishing just and reasonable rates.

Page 37, line 22, Insert new ordering paragraph as follows:

IT IS FURTHER ORDERED that Mohave Electric Cooperative, Incorporated is authorized to account for this adjustment to its PPCA bank balance in any manner acceptable to its auditors and lenders. Such action shall not constitute or imply approval or disapproval by the Commission of any accounting treatment for purposes of establishing just and reasonable rates.

MEC PROPOSED AMENDMENT NO. 6  
Docket No. E-01750A-11-0136  
(Line Extension Policy)

Page 11, Delete lines 14 – 20 and substitute:

The record in this case does not indicate that MEC attempted to reach out to members or obtain input from other entities that may be affected by its proposed policy changes. (See, Ex. MEC-1, Attach. 3, at 32.) We believe the lack of outreach and input into the proposed policy changes supports preserving MEC's existing line extension policies as they relate to the sharing of costs between existing and prospective customers unless and until MEC has demonstrated to our satisfaction that it has performed sufficient outreach to its members and that revisions to the line extension policies are in the public interest. However, we believe MEC should be allowed to proceed with other clarifications and updates to its line extension policies in a form acceptable to Staff.

Page 34, line 4, Insert following "policies":

"as they relate to sharing of costs between existing and prospective customers"

Page 34, line 7 Insert new Findings of Fact and renumber accordingly:

38. MEC may implement other non-monetary clarifications and updates to its line extension policies in a form acceptable to Staff by filing the proposed clarifications and updates to its line extension policies in this docket with a proposed effective date not less than 45 days after docketing, which changes shall be effective on the proposed effective date, unless Staff files an objection thereto prior to the proposed effective date.

39. We will also hold this docket open until December 31, 2013, for the sole purpose of allowing MEC to request additional revisions to its line extension policies after allowing adequate public input and comment on this issue.

Page 36, line 21, Insert after "policies":

"as they relate to the sharing of costs between existing and prospective customers"

MEC PROPOSED AMENDMENT NO. 6  
Docket No. E-01750A-11-0136  
(Line Extension Policy)

Page 36, line 24, Insert additional Ordering paragraphs:

IT IS FURTHER ORDERED Mohave Electric Cooperative, Incorporated may file nonmonetary clarifications and updates to its line extension policies in this docket with a proposed effective date not less than 45 days following such filing, which changes shall be effective on the proposed effective date unless Staff files objections thereto prior to the proposed effective date.

IT IS FURTHER ORDERED that this docket shall remain open until December 31, 2013, for the sole purpose of allowing Mohave Electric Cooperative, Incorporated to request additional revisions to its line extension policies after allowing adequate public input and comment on this issue.